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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,185	04/19/2004	Mike Musgrave	COS-889	2436
25264	7590	06/20/2007		
FINA TECHNOLOGY INC PO BOX 674412 HOUSTON, TX 77267-4412			EXAMINER LEE, RIP A	
			ART UNIT 1713	PAPER NUMBER
			MAIL DATE 06/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/827,185	Applicant(s) MUSGRAVE ET AL.	
	Examiner Rip A. Lee	Art Unit 1713	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on April 11, 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-18,20-24 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 11-18, 20-24, and 26-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

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|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This office action follows a response filed on April 11, 2007. Claims 1, 12, 21, 22, 27, and 31-34 were amended. Claims 1, 3-9, 11-18, 20-24, and 26-34 remain pending.

#### *Claim Rejections - 35 USC § 103*

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Su *et al.* (U.S. 7,078,463) in view of McCullough *et al.* (U.S. 6,015,854).

Su *et al.* discloses a biaxially oriented polypropylene film comprising up to 50 wt % of isotactic polypropylene containing impact copolymer (heterophasic copolymer with up to 30 wt % of ethylene-propylene rubber phase dispersed in polypropylene matrix, described in col. 5, lines 40-54; melt flow 1-10 g/10 min, see claim 2), 10-70 wt % of an alpha olefin-propylene random copolymer, and 10-70 wt % of a third component, which is a "minirandom" isotactic polypropylene-ethylene copolymer with an ethylene content of 0.2-0.8 wt % (col. 6, line 30). The reference discloses the resin blend only but does not describe additives, however, the inventors indicate that various modifications are readily apparent to those skilled in the art. The skilled artisan, then, recognizes that the composition is not commercially practical without incorporation of conventional additives.

McCullough *et al.* teaches that due to the heterophasic nature of propylene impact copolymer, it is common practice to incorporate dibenzylidene sorbitols as clarifying agent in the amount of 800-5000 ppm, with 1200-4000 ppm being a preferable range (col. 2, lines 55-66). It would have been obvious to one having ordinary skill in the art, having both references at hand to use clarifying agent as disclosed in McCullough *et al.* in the film composition of Su *et al.* in order to provide a clear film.

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3. Claims 1, 3-9, 11-18, 20-24, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Su et al.* in view of *McCullough et al.*

The discussion of the disclosures of the prior art from the previous paragraph of this office action is incorporated here by reference. The prior art is silent with respect to the physical properties of the composition and articles prepared therefrom. However, in light of the fact that the composition of the prior art is substantially the same as that described in the instant claims, a reasonable basis exists to believe that it exhibits substantially the same physical properties recited in the instant claims. Since the PTO can not perform experiments, the burden is shifted to the Applicants to establish an unobviousness difference. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

#### ***Response to Arguments***

4. Claims rejections based on *Suzuki et al.* (JP-9-165482), set forth in the previous office action, have been overcome by amendment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



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June 16, 2007